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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 6, 7 and 11 are pending in the application and have been rejected.

Claim 7 has been amended herein to correct an indefiniteness issue. Applicants respectfully assert that the amendments to the claims add no new matter.

CLAIM REJECTIONS

35 U.S.C. § 112 Rejection

In the Office Action, the Examiner rejected claim 7 under 35 U.S.C. § 112, second paragraph, as being indefinite because it is unclear whether “the movable partition” in line 2 refers to the first movable partition or the second movable partition. In response, Applicants have amended claim 7 to clarify that “the movable partition” in line 2 refers to the first movable partition.

35 U.S.C. § 103 Rejection

In the final Office Action, the Examiner maintained his previous rejection of claims 6, 7 and 11 under 35 U.S.C. § 103(a), as being unpatentable over Rasa et al. (U.S. Patent Application Publication No. 2004/0069235) in view of Carlson et al. (U.S. Patent No. 5,464,360) and further in view of Anderson, Jr. et al. (U.S. Patent No. 5,320,069).

The Examiner states that Raza et al., at paragraphs [0019] and [0029], teach a first receptacle 9 having a perforated outside wall 10 and a second receptacle (2) connected to the first receptacle with a partially perforated common separating wall (11) between the first and second receptacles, wherein the bug is located in the first receptacle and the animal is located in the second receptacle. The Examiner admits that Raza et al. do not teach the first receptacle having a moveable partition (claim 6) and a piston rod on the opposite end surface

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on which the first movable partition is arranged (claim 7) to allow the bug to be held against the perforated outside wall of the first receptacle, but alleges that Carlson et al. teach a movable partition and piston rod for positioning the assassin bug against a perforated outside wall of the receptacle.

Applicants previously argued that the claimed perforated outside wall of the first receptacle is for holding the bug thereagainst using the first movable partition and for drawing blood from the bug therethrough using an injection syringe, but wall 10 in Raza et al. is simply a closure wall of flea containment unit 9 and is not adapted for withdrawal of blood therethrough, since the only blood source in Raza et al. is the animal from which the flea is drawing blood, not the fleas themselves, such that there is no need in Raza et al. for a mechanism to restrain the fleas and to draw blood from the fleas. The Examiner responded that this is an intended use limitation and does not impose any structural limitation on the claimed apparatus.

In addition, Applicants previously argued that Carlson et al. teach a receptacle with only one perforated wall, namely screen 12 that is positioned against the animal and through which the insects contained within the receptacle sting the patient when the insect is pushed forward by pusher 21, and the only blood source is the patient from which the insect in the receptacle is drawing blood, and no blood is drawn from the insects, such that Carlson et al. do not teach or suggest a mechanism to restrain the insects while blood is being drawn from the insects, since screen 12 is not adapted for withdrawal of blood from the insects therethrough. Applicants argued that the combination of Raza et al., Carlson et al. and Anderson et al. does not teach "the assassin bug can be held in place against the perforated outside wall of the first receptacle by the first movable partition and blood can be removed from the abdomen of the assassin bug using an injection syringe", as recited in independent claim 6.

The Examiner responded that because the terminal wall 7 encloses the animal within the receptacle the Examiner considers it to meet this limitation, since without terminal wall 7 the animal would not remain in the receptacle and would not be positioned against the common separating wall.

First, Applicants contend that one of ordinary skill in the art would not consider and combine the teachings of Rasa et al., Carlson et al. and Anderson et al. as alleged by the Examiner.

Rasa et al. discloses an apparatus which allows easy assaying of in vivo feeding data for fleas feeding from a blood source. Said apparatus is designed to be useful in, e.g., repellent testing. However, Rasa et al. does not deal with what can be done with the fleas after they have drawn blood from the animal in the blood host housing unit and does not provide any hint or motivation that the apparatus of Rasa et al. could be in any way useful for development of a device for carrying out the minimally invasive withdrawal of blood, so that the blood can be used for later analysis. Thus, it appears questionable whether one would at all consider the teaching of Rasa et al. when developing the device of claim 6.

In addition, Carlson et al. proposes a movable partition solely in order to bring an insect into proper position so that the insect can draw blood from a patient/animal/subject. The movable partition of Carlson et al. is not intended or designed for positioning an insect away from the patient/animal/subject after it has sucked blood in order to allow for convenient withdrawal of blood from the insect. Thus, Carlson et al. deals with a completely different problem and provides a solution that is not suitable for the device of claim 6. Furthermore, Carlson et al. does not provide any hint or motivation for the skilled person to combine the container with the apparatus of Rasa et al., since neither Rasa et al. nor Carlson et al. provides any hint or motivation to modify the teaching of Rasa et al. and Carlson et al. in such a way as to arrive at a device wherein a movable partition is formed to position the assassin bug in such a way as to allow for easy withdrawal of blood from the assassin. Thus, a combination of Rasa et al. and Carlson et al. appears to be not obvious for one of ordinary skill in the art as of the priority date of the present invention.

Furthermore, as already explained above, Anderson et al. is not suitable to disclose means that can serve as second movable partition in the sense of the present invention. As can be seen in Figure 1 of Anderson et al., an animal is pushed by a plunger 22 in longitudinal axis of a cylindrical body 20 in order to position the animal properly such that ocular manipulations are possible without anesthetizing the animal. Anderson et al. deals with a completely different problem and provides no hint or motivation to combine with Rasa

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et al. or Carlson et al. If the arrangement of Anderson et al. would be combined with the apparatus of Rasa et al. and the container of Carlson et al., the animal will be pushed by plunger 22 in parallel past the common separating wall, away from the area of possible contact between the animal and the assassin bug. Thus, a direct use of the restraint device of Anderson et al. in the apparatus of Rasa et al. cannot result in an embodiment exhibiting all features of claim 6.

Based on these facts, Applicants contend that a combination of Rasa et al., Carlson et al. and Anderson et al. would not have been obvious for the skilled person at the priority date of the present invention. It appears to Applicants that such a combination is obvious only in positive knowledge of the present invention, i.e., in hindsight, which is impermissible.

In addition, Applicants contend that the Examiner's assumption (the Examiner considers terminal wall 7 to meet the claim limitation because the terminal wall 7 encloses the animal within the receptacle, since without terminal wall 7 the animal would not remain in the receptacle and would not be positioned against the common separating wall) is flawed. The device disclosed in Anderson et al. does not allow positioning of the animal by pushing the animal against the at least partially perforated common separating wall. The word "against" as used in independent claim 6 is used to express that the animal must be pushed towards the common separating wall so that the assassin bug is close enough and can actually withdraw blood from the animal. In the device of Anderson et al., by contrast, the animal is moved in a direction that would only allow for pushing the animal in parallel past the common separating wall. Thus, the animal is not ensured to be positioned close enough that the assassin bug can actually draw blood from the animal.

In fact, when the device of Anderson et al. is applied to the apparatus of Rasa et al., the animal may even be pushed outside the area of potential contact of the animal and the assassin bug. Thus, the solution provided in Anderson et al. is not suitable to fulfill all requirements of this limitation of independent claim 6. Therefore, the combination of Rasa et al., Carlson et al. and Anderson et al., even if assumed to be combinable, cannot lead one of skill in the art to the of claim 6 at least because above mentioned feature is not derivable from any of the three disclosures.

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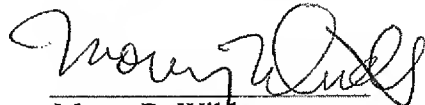
Accordingly, in view of the above arguments and amendments, independent claim 6 is patentable and is not obvious over the combination of Raza et al. and Carlson et al. and over the combination of Raza et al., Carlson et al. and Anderson et al. Each of claims 7 and 11 is dependent on amended independent claim 6 and includes all the limitations of this claim. Therefore, dependent claims 7 and 11 are likewise allowable. Therefore, Applicants request that the Examiner withdraw this rejection.

In view of the foregoing amendments and remarks, the pending claims are allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



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